

ORD. # 02-54

AN ORDINANCE TO AMEND ARTICLE 1, CHAPTER 18, OF THE CODE OF  
ORDINANCES FOR THE CITY OF CONCORD, NORTH CAROLINA  
PURSUANT TO PEDDLERS

WHEREAS, the City Council of the City of Concord, North Carolina has adopted a Code of Ordinances relative to the administration of governing regulations; and

WHEREAS, Section 18, Businesses, of the Code of Ordinances, regulates Peddlers, Itinerant Merchants and Specialty Market Operators within the City of Concord; and

WHEREAS, it has been determined by staff that there is a need to modify Article II, Section 18.17 – 18.32;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Concord, North Carolina that after due consideration, and in the best interest of all the citizens of Concord, that:

Section 1: Article II, Section 18-31 and Section 18-32, are hereby deleted in their entirety;

Section 2: That new Sections 18-17 through 18-32 as follows are hereby adopted:

**Article II. Peddlers, Itinerant Merchants, and Solicitors**

**Section 18-17. Definitions.**

The following wording, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(a) *Business* means the business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

(b) *Itinerant Merchant* means any merchant, other than a merchant with an established retail store in the city who transports an inventory of goods to a building, vacant lot, or other locations in the city and who, at that location, displays the goods for sale and sells the goods at retail. A merchant who sells goods, other than farm products, in the city for less than six consecutive months is considered an itinerant merchant unless he stopped selling goods in the city because of death or disablement, the insolvency of his business, or destruction of his inventory by fire or other catastrophe.

(c) *Peddler* means any person not an itinerant merchant who:

(1) Travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods he carries; or

(2) Without traveling from place to place, sells or offers goods for sale from any public place within the city.

(d) *Solicitor* means any person who travels by any means from place to place, taking or attempting to take orders for sale of goods, to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

**Sec. 18-18. Privilege license requirements:**

(a) Any person who is a peddler of farm products, peddler on foot or peddler with vehicle shall obtain a license before engaging in such activity within the city.

(b) The fee for the license required by this section shall be set from time to time and included in the Schedule of Fees and Charges as adopted by City Council.

(c) No license issued under this section shall be transferable.

(d) All licenses under this section shall expire 90 days after the date of issuance thereof.

(e) *Exemptions.*

1. The sales persons or representatives of the following are exempt from this section of this article:

- a. Sells farm or nursery products he produces;
- b. Sells crafts or goods made by him or his own household;
- c. Is a nonprofit charitable educational, religious, scientific or civic organization;
- d. Sells printed materials of a face value of less than \$5.00, wood for fuel, ice, seafood, meat, poultry, livestock, eggs, dairy products, bread, cake or pies;
- e. Is a licensed automobile dealer;
- f. Maintains a fixed permanent location from which they make at least 90 percent of their sales; or
- g. Complies with G.S. 25A-42 (customer credit sales at residences with right to cancel) or with G.S. 14-401.13 (off-premises sales of consumer goods or services of \$25.00 or more)

2. Exemptions for certain itinerant merchants shall be the same as in exemptions A-G of Sec. 18-18 plus an itinerant merchant who:

- a. Locates at a farmers' market;
- b. Is part of the state fair or an agriculture fair licensed by the commissioner of agriculture; or
- c. Sells goods at an auction conducted by a licensed auctioneer.

**Sec. 18-19. Application procedure.**

(a) All applicants for licenses required by this section shall file an application with the tax collector two weeks prior to the time of operation. A nonrefundable application fee as set from time to time and on file at the city clerk's office will be required at the time of application. This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president if a corporation. The applicant may be requested to provide information concerning the following items:

1. The name and address of the applicant;
2. The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city. Along with said individuals local address, permanent address, and the capacity in which he/she will act;
3. The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;
4. The time period or periods during which it is proposed to carry on applicants business;
5.
  - a. The nature, character, and quality of the goods or services to be offered for sale or delivered;
  - b. If goods, their invoice value and whether they are to be sold by sample as well as from stock;
  - c. If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;
6. The nature of the advertising proposed to be done for the business;
7. Whether or not the applicant, or the individual identified in Sec. 18-19, (a) (2), or the person identified in Sec. 18-19 (a) (3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.

(b) Applicants for peddler or solicitor licenses may be required to provide further information concerning the following items, in addition to the requested under division (a) above:

1. A description of the applicant
2. A description of any vehicle proposed to be used in the business, including its registration number, if any.

(c) All applicants for licenses required by this section shall be attach to their application, if required by the city, credentials from the person, if any, for which the applicant proposed to do business, authorizing the applicant to act as such representative.

(d) Applicants who propose to handle foodstuffs shall also attach to the application in addition to any attachments required under division (c), a statement from a licensed physician, dated not more than 10 days prior to the date of application, certifying the applicant be free of contagious or communicable disease.

**Sec. 18-20. Standards for issuance.**

Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made. Tangible evidence that the applicant has done one or more of the following shall constitute valid reasons for disapproval of an application:

- (a) Has been convicted of a felony or crime of moral turpitude;
- (b) Has made willful misstatements in the application;
- (c) Has committed prior violations of ordinances pertaining to itinerant merchants, peddlers, and solicitors, and the like;
- (d) No application from an applicant previously convicted of a felony or misdemeanor involving fraud, forgery, sale of counterfeit goods, ticket scalping, violation of tax laws, or business license laws will be approved. All approved itinerant merchant, peddlers, and solicitor applicants will be required to submit a crew and vehicle registration form for purposes of information and identification.
- (e) Has committed prior fraudulent acts;
- (f) Has a record of continual breaches of solicited contracts; or
- (g) any other tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare.

**Sec. 18-21. Disallowance of Application.**

The application for license will be approved or disallowed by the Chief of Police. The itinerant merchant, peddler, or solicitor will be notified in writing if his application has been approved or disallowed. If the application is disallowed, the itinerant merchant will not be permitted to conduct business within the city limits of Concord.

**Sec. 18-22. Revocation Procedure.**

Any license or permit granted under this chapter may be revoked by the clerk after notice and hearing, pursuant to the standards in Sec. 18-23. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days prior to the date set for the hearing.

**Sec. 18-23. Standards for Revocation.**

A license granted under this section may be revoked for any of the following reasons

- (a) Any fraud or misrepresentation contained in the license application;

(b) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license;

(c) Any violation of this section;

(d) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude, or conviction of any other offense that would be grounds for denial of issuance of the license; or

(e) Conduction the business licensed in an unlawful manner of in such a way as to constitute a menace to the health, safety, morals, or general welfare to the public.

#### **Sec. 18-24. Penalty.**

It shall be a misdemeanor, punishable as provided in G.S. 14-4 (imprisonment up to 30 days, a fine of up to \$500.00, or both, or a \$500.00 civil penalty to be recovered in the nature of a debt) for;

(a) Failure to obtain a license as required by this section

(b) Knowingly giving false information in the application process for a license;

(c) Failure to display the license

(d) Failure to provide the name, address or identification upon request as required by this section, or provide false information upon such a request.

#### **Sec. 18-25. Appeal procedure.**

Any person aggrieved by a decision under Sec. 18-20 or 18-23 shall have the right to appeal to the Finance Director. The appeal shall be taken by filing with the Finance Director within 14 days after notice of the decision has been mailed to such person's last know address, a written statement setting forth the grounds for appeal. The Finance Director shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in Sec. 13-23. The order of the Finance Director after the hearing shall be final.

#### **Sec. 18-26. Display and possession of license and identification.**

An itinerant merchant shall keep the license required by this section conspicuously and prominently displayed so as to be visible for inspection by patrons of the itinerant merchant at the place or locations at which the goods are to be sold or offered for sale. A peddler shall have a license required by this section with him at all times he offers goods for sale. A solicitor shall have a license required by this section with him at all times he offers goods or services for sale. Upon request of any customer, state or local revenue or law enforcement agent or officer, a peddler, itinerant merchant or solicitor shall provide its name and permanent address. If the peddler, itinerant merchant, or solicitor is not a corporation, or is an employee of a corporation, he shall, upon the request of any customer, state, or local revenue or law enforcement agent or officer, provide a valid drivers license, a special identification car issued under G.S. 20-37.7, a military identification, or a passport bearing a physical description of the person named reasonably describing the peddler, itinerant merchant or solicitor. If the peddler, itinerant merchant or solicitor is a corporation, it shall,

upon request of any customer, state or local revenue or law enforcement agent or officer, give the name and registered agent of the corporation and the address of the registered office of the corporation, as filed with the state secretary of state or the county register of deeds.

**Sec. 18-27. Permission of the property owner.**

An itinerant merchant, peddler, or solicitor who travels from place to place with a vehicle should obtain a written statement, signed by the owner or lessee of any property upon which the itinerant merchant, peddler, or solicitor offers goods for sale giving the owners or lessees permission to offer goods for sale upon the property of the owner or lessee, the location of the premises for which the permission is granted, and the dates during which the permission is valid

**Sec. 18-28. City policy on soliciting.**

It is hereby declared to be the policy of the city that the occupants of the residences in the city shall make the determination of whether solicitors shall be or shall not be invited to their respective residence.

**Sec. 18-29. Notice regulating soliciting.**

Notice of the refusal of invitation to solicitors, to any residence, shall be given on a waterproof card, approximately three inches by four inches in size, exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words as follows:

“NO SOLICITORS INVITED”

**Sec. 18-30. Duty of solicitors to ascertain notice.**

(a) It shall be the duty of every solicitor upon going onto any premises in the city upon which a residence is located to first examine the notice provided in Sec. 18-29 is any is attached, and be governed by the statement contained on the notice. If the notices states, “NO SOLICITORS INVITED,” then the solicitor, whether registered or not, shall immediately and peacefully depart from the premises.

(b) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

**Sec. 18-31. Prohibited Solicitation.**

It is hereby declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring a doorbell upon or near any door, or create any sound in any manner calculated to attract the attention of the occupant thereof and engage in soliciting in defiance of the notice exhibited at the residence in accordance with the provisions of Sec. 18-29.

**Sec. 18-32. Soliciting from streets or medians.**

It shall be unlawful for any person to stand, sit or loiter in any street or highway, including shoulders or median strip but excluding sidewalks, and or stop or attempt to stop any vehicle for the purpose of soliciting or accepting contributions from the occupants of any vehicle. It also shall be unlawful for any person to stand, sit or loiter in any street or highway, including the shoulders or median strip but excluding sidewalks, and to solicit or accept contributions from the occupant of any stopped vehicle or to distribute merchandise to the occupants of

any stopped vehicle. Permission to solicit at such locations equipped with traffic signals and in conformity with the cycle of the traffic signal for a charitable purpose may be granted by the City Traffic Engineer.

Section 3: That this ordinance shall become effective immediately upon its adoption.

Adopted this 8<sup>th</sup> day of August, 2002.

CITY COUNCIL  
CITY OF CONCORD  
NORTH CAROLINA

/s/ J. Scott Padgett, Mayor

ATTEST: /s/ Vickie C. Weant, City Clerk